

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

GARY L. DOTSON and,)	
SANDRA S. DOTSON,)	
)	
Plaintiffs,)	Case No. 3:21-cv-50214
)	
v.)	Hon. Iain D. Johnston
)	Hon. Margaret A. Schneider
MENARD, INC.,)	Magistrate Judge
)	
Defendant.)	

RESPONSE IN OPPOSITION TO MOTION TO STRIKE AND BAR

NOW COME the Plaintiffs, GARY and SANDRA DOTSON, by and through their attorney, Louis F. Pignatelli, of the law firm Pignatelli & Associates, P.C., and for their response to the Defendant's Motion to Bar and Motion to Strike the Plaintiffs' Rule 26(a)(2)(c) disclosure, state as follows:

1. Plaintiffs previously submitted to counsel and this Court 26(a)(2)(c) disclosures, as the Minute Entry of February 15, 2022 reflects. Dkt. 25.

2. In courtesy and compliance with the Amended Case Management Order of May 26, 2023, Plaintiffs' reiterated their 26(a)(2)(c) disclosures to opposing counsel on August 7, 2023. See attachment.

3. In conformity with Federal Rule of Civil Procedure 26(a)(2)(c), the disclosure included the subject matter experts' contact information and a summary of the facts and opinions to which the witnesses are expected to testify.

4. Plaintiffs previously disclosed this same information; because the Amended Case Management Order addressed this issue, counsel for Plaintiffs

diligently and thoroughly reviewed the case file and updated records since the earlier disclosure, and complied with the request of the court.

5. The arguments that opposing counsel advances with respect to earlier deadlines in 2021, the previous Motion to Withdraw, and the previous extensions of time granted memorialize issues already addressed by this Court and distract from the issue at the heart of both Defendant's motions: there is no basis to strike disclosures and bar testimony from witnesses disclosed and reiterated in compliance with the spirit and order of this Court. What is disclosed cannot be barred, struck for not being disclosed.

6. Current counsel for Plaintiffs entered their appearances on March 24, 2023; regrettably, counsel who appeared in 2021 is no longer with the firm and the case management that occurred while previous counsel appeared was not ideal.

7. It is the intention of current counsel to vigorously prosecute the instant litigation, and quickly and completely address any error or omission with the best efforts and practical executions.

8. Defendants' Motion to Strike and Bar Plaintiffs' Rule 26(a)(2)(C) Disclosure and Testimony should be denied as Plaintiff's disclosures were timely filed.

WHEREFORE, Plaintiffs, GARY AND SANDRA DOTSON, respectfully request that this Court exercise its discretion in dismissing the instant Motion to Strike and to Bar, and allow Plaintiffs' counsel to vigorously prosecute the instant action in compliance with each and every further directive of the Honorable Court.

Respectfully submitted,

GARY AND SANDRA DOTSON, Plaintiffs

By: _____/s/_____

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